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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,208

08/28/2003

Andrew W. Phillips

GP-302782

7158

74175 7590 07/15/2010
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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3657

NOTIFICATION DATE

DELIVERY MODE

07/15/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

troydocketing@hdp.com
gm-inbox@hdp.com

Office Action Summary	Application No.	Applicant(s)	
	10/650,208	PHILLIPS ET AL.	
	Examiner	Art Unit	
	Lan Nguyen	3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9,10,12-14,19-21,32-34 and 36-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-6,9,20,21,32-34 and 36-42 is/are allowed.
- 6) ☒ Claim(s) 10,12-14 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 12-14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Benford (5319963).

Re: claim 10, Benford shows a method of controlling a cooling, as in the present invention, comprising: estimating a temperature state of a friction device in the Abstract; determining a loop time in column 5, lines 50-65; calculating a flow command and controlling the fluid in column 6, line 54 to column 7, line 25; and the temperature state is based on said loop time in column 5, lines 50-65.

Re: claims 12-14 and 19, Benford further shows the determinations are based on torque and slip speed in column 1, lines 30-48; a sump with sump temperature in column 4, lines 30-40; flow command in step 24 wherein calculation of the flow command is shown in column 6, line 54 to column 7, line 25; and thermal energy is shown in step 12.

Allowable Subject Matter

3. Claims 1, 3-6, 9, 20, 21, 32-34 and 36-40 are allowed. It is found that Benford does not teach a heat rejection of a friction device or a cooling system, as claimed. Furthermore, Benford does not teach the formulas as claimed.

Response to Arguments

4. Applicant's arguments filed 5/10/10 have been fully considered.
- Applicant's arguments with respect to the rejection based on new matter have been found persuasive. Hence, the rejection has been withdrawn.
 - Applicant's arguments with respect to the rejection based on non-enablement have been found persuasive. Hence, the rejection has been withdrawn.
 - Applicant's arguments with respect to the anticipation rejection of claims 1, 3-6, 9, 20, 21, 32, 37, 38 and 40 have been found persuasive. It is correct that Benford disclose a heat rejection of the engine and not of a friction device or a cooling system. Hence, the rejection has been withdrawn.
 - Applicant's arguments with respect to the obviousness rejection of claims 33, 34, 36 and 39 have been found persuasive. It is correct that Benford does not disclose the formulas as claimed. Hence, the rejection has been withdrawn.
 - Applicant's arguments with respect to the rejection of claim 10 have been found to be non-persuasive. Applicant argues that Benford shows a fixed value for the loop time which does not vary in time. Applicant's argument is more specific than the claim language. Claim 10 does not require the loop time to be a

variable value. A review of the specification of the instant application does not show the loop time to be variable. Therefore, the rejection is maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Xuan Lan Nguyen/
Primary Examiner
Art Unit 3657